

BUREAU OF CONSUMER PROTECTION Consumer Facts

Wisconsin Department of Agriculture, Trade and Consumer Protection • P.O. Box 8911 • Madison, WI 53708-8911 • 1-800-422-7128

How the Direct Marketing Rule helps you

"You've won a wonderful vacation!"

"We'll give you this product half price if you let us use your name as one of our satisfied customers!"

"I'm taking a survey."

"I'm in a contest and you can help me!"

"You need credit card protection!"

"I'm calling from your credit card company to confirm information."

Misleading come-ons like these are often used by direct marketers to persuade consumers to buy things. And the problem is getting worse. Telemarketing complaints are now in the top 10 list of complaints after being 43rd in 1996 and 29th in 1997.

Fortunately, Wisconsin has a direct marketing rule that took effect August 1, 1999, to protect consumers in telephone, e-mail, fax, mail, and door to door transactions (including sales made in motel and hotel rooms and other places away from the seller's place of business).

Before direct marketers say anything other than a short greeting, they must disclose who they are, who they are calling on behalf of, and what they are selling.

Prior to finalizing the sale, and before taking a credit card number or before taking any money, they must disclose the cost, quantity, conditions, refund policy and the name and address of the principal company.

A direct marketer can't bill your credit card without your verifiable authorization and the marketers

must keep records of transactions for at least two years.

This rule also prohibits:

- Threatening, intimidating or harassing consumers.
- Failing to leave a consumer's premises upon request.
- Calling consumers who previously said they do not wish to receive telephone solicitations from that seller.
- Calling consumers before 8 a.m. or after 9 p.m. without their prior consent.

Requesting or receiving payment for loan finder services before the consumer actually receives the promised loan. This is

(over)

aimed at companies that promise loans, charge a fee, and disappear without producing the loan.

- Requesting payment for helping consumers recover money lost in a prior home solicitation transaction until at least seven days after the consumer recovers the money. This is aimed at so called "recovery room" schemes, which prey on previously victimized consumers.

In addition, the law prohibits solicitors from requiring a purchase as a condition of entry into a prize promotion and requires solicitors to verify the retail value of prizes and disclose the odds of winning.

Three-day cooling-off period

The new rule adds enforcement penalties to another Wisconsin law which provides a "cooling-off" period allowing you three business days to think about and cancel a direct marketing sale if you wish. **This applies to credit transactions and cash sales of \$25 or more that occur away from the seller's regular place of business.** The three-day cooling-off period doesn't cover real estate, auctions, items used for agricultural purposes or insurance—even if sold door to door. Your three-day right to cancel starts after the seller has provided you the proper written notice of your right to cancel.

Cancelling the contract

In a direct marketing transaction, you must be notified of your three-day right to cancel. If you do choose to cancel, send your cancellation by certified mail, so you will have written proof that your cancellation notice was sent on time. Your money must be returned to you within 10 days. If the seller does not pick-up the product in 20 days, you may keep it.

Additional protection

The rule also provides protection when a telephone caller bills your credit card during the call. When you are billed this way, the telemarketer must tell you that you have seven days to cancel after delivery. And at delivery, the paperwork you receive must again notify you of your seven-day right to cancel.

Unauthorized payment

Under this rule, the direct marketer must obtain your authorization (either written or oral) before asking for or accepting payment, a credit card number or submitting a check.

Unordered goods

What about stuff you receive in the mail that you didn't order? Under another state law, unsolicited merchandise is considered a gift and may be kept without any obligation to the

sender. Don't be pressured to pay companies who make a practice of mailing unordered merchandise on a "trial basis," followed by phony invoices. **But remember, when you order items like books or records under what may be referred to as a "continuity plan" or a "negative option sales plan," the merchandise will be sent to you automatically under obligation to pay unless you notify the seller in advance you don't want it.**

If you have a problem

Direct marketers who violate the rule may receive a civil forfeiture of up to \$10,000, or a fine of up to \$5,000 and be imprisoned for up to a year.

In addition, Wisconsin law also provides you with a private remedy: If you sue and win, you get twice the amount of any money lost, plus courts costs and attorney's fee. Contact your personal attorney to discuss the application of this private remedy.

Should you have reason to believe a seller has violated the law, file a complaint with the Bureau of Consumer Protection:

(800) 422 7128

FAX: (608) 224-4939

TTY: (608) 224-5058

E-MAIL:

datcph hotline@datcp.state.wi.us

WEBSITE:

<http://datcp.state.wi.us/>